



January 20, 2010

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Executive Director

Chief George Turner

Atlanta Police Department

226 Peachtree Street, S.W.

Atlanta, Georgia 30303

RE: Eagle Bar Complaints #09-36, #09-38, #09-34, #10-08, #10-09, #10-10,
#10-11, #10-12, #10-13, #10-14, #10-15, #10-16

Dear Chief Turner:

MAYOR of ATLANTA

KASIM REED

Atlanta City Council

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Post 2-At-Large

H. Lamar Willis

Post 3-At-Large

As you know, the Atlanta Citizen Review Board received twelve complaints from patrons and employees of the Eagle Bar. The Board considered the complaint of David Shepherd (**10-16**) in June 2010 and sent you their recommendation and disciplinary recommendation on June 14, 2010. The Board recommended that you sustain the allegation of false arrest against Investigator Bennie Bridges and Sergeant John Brock. The Board further recommended that Investigator Bridges receive a written reprimand. However, they considered Sergeant Brock's supervisory duties and recommended that he receive a three-day suspension without pay for failure to supervise and for the false arrest of Mr. Shepherd.

You have since replied and explained that you reject the Board's recommendation because the Office of Professional Standards has not completed its investigation and have indicated that you may reconsider the recommendation after your investigation is complete.

The second complaints considered by the Board were filed by Robert Kelley and Ernest Buehl (**09-36 & 09-38**). They were employees of the Eagle Bar and thus, the Board only considered their claims that officers used abusive language. The Board considered this investigation on August 12, 2010 and recommended that you sustain the complaints of abusive language; however, the Board did not make a disciplinary recommendation until now.

The third group of complaints considered by the Board was filed by the patrons of the bar (**09-34, 10-08, 10-09, 10-10, 10-11, 10-12, 10-13, 10-14, 10-15**). They complained of the abusive language reported by Mr. Kelley and Mr. Buehl and also stated that they had been unlawfully imprisoned by the officers who conducted this enforcement action. The Board considered this investigation in September and voted to sustain these allegations against all of the officers who were present and to further study the supervisory responsibility for the violations.

Continue ...

On January 19, 2010, the Board considered the study conducted by staff concerning the actions and responsibilities of the supervisors. This study is enclosed for your consideration. In order to evaluate this aspect of the complaints, further interviews were conducted with Sergeants Brock, Collier, and Adams. Lieutenants Crawford and Pautsch were further interviewed, as was Major D. Williams.

The Board further examined the Atlanta Police Department's Standard Operating Procedures regarding supervision, search and seizure, the Special Enforcement Section, Red Dog Unit. The specific rules are quoted and listed in the accompanying report and appear below in the form of a chart. Additionally, the Board noted that it was evident, during the course of the interviews with many of the officers, that they were unfamiliar with constitutional requirements for conducting searches and seizures. Some officers genuinely believed that it is proper to place all of the patrons on the floor and frisk them because of officer safety consideration. Some cited the fact that the Eagle Bar did not have a metal detector in support of the notion that they had reason to believe that persons were armed. Atlanta Police Department Standard Operating Procedure, 3020 at 4.3.3.3 correctly summarizes the constitutional law that applies in this type of enforcement. It states, "Officers must have a **particularized** and objective basis for suspecting the particular person detained of criminal activity." It further explains that, "the authority to detain or stop does not automatically include the authority to frisk or pat down." While the officers may have had arguable probable cause to detain, arrest and search the employees of the bar, there was no evidence that the patrons had committed or were about to commit a crime. Further, there was never any evidence that any of the patrons were armed on this night or on any of the other occasions that the officers visited the Eagle Bar.

During the interview conducted with Sergeant Collier, it became clear that he could not remember important details concerning what occurred on the night of the raid. He explained that he was assigned to observe the bar area, however, he could not say how many bartenders were working. He replied that there were two or three or four bartenders working. He said he did not provide direction to any officers and that he just stood at the bar. When asked if he went up stairs with Investigator Bridges and Sergeant Adams to arrest Mr. Shepherd, he said that he did go and he could not remember if the officers knocked at the door and could not remember how and when the door was opened. He could not remember how many times he observed criminal behavior and he did not do anything to establish the identity of the persons who committed criminal violations. He could not say how long the patrons were kept on the floor and he did not remember the instructions given to the officers at the briefing that preceded the entry into the Eagle Bar. This, the Board found, not credible and they voted to sustain an allegation of untruthfulness concerning Sergeant Collier's interview with the ACRB. They recommended a thirty day suspension.

The Training Section provided records concerning the department's in-service training for officers during 2008 and 2009. There was no indication that officers received training concerning constitutional law. The Board recognizes that Fourth Amendment law can be complicated and counterintuitive for officers and they may need to have on-going and frequent updates to this important subject in order to avoid these types of problems. The Board also recommends that all similar enforcement actions be video and audio-taped in order to avoid the conflicting versions of events that often arise in these types of cases.

The Board considered your disciplinary guidelines when making their recommendations. They voted to recommend that Sergeants Collier, Adams and Brock receive written reprimands and training on Fourth Amendment law. They further recommended that Lieutenant Crawford receive a reprimand and Fourth Amendment training because he did not ensure that officers followed the correct procedures and the Vice Unit had overall responsibility for the investigation. The same recommendation was made with regard to Major Deborah Williams who commanded the Red Dog Unit and the Vice Unit at the time of the incident. The Board previously recommended a finding of sustained against Sergeant Brock and Investigator Bridges and this recommendation is in addition to the discipline recommended for the violations found in the arrest of David Shepherd (10-16).

The remaining Red Dog and Vice Unit officers who participated in the raid and were originally found to have used abusive language and to have unlawfully detained the patrons of the bar are listed below and the Board recommends that they receive a three day suspension and training in Fourth Amendment law.

Case Number	Complainants	Allegations	Officers	ACRB Finding
10-16	David Shepherd	Unlawful Imprisonment Failure to Supervise (Sgt. Brock only)	Sgt. Brock Inv. Bridges	Sustained False Arrest Recommend Inv. Bridges – Reprimand Sgt. Brock – 3 Day suspension for Failure to Supervise
09-36	Robert Kelley	Abusive Language	All Officers Present Sgt. J. Brock Sgt. W. Adams Sgt. K. Collier Off. M. Mague Off. R. Godwin Off. S. Davis Inv. Bridges Off. J. Edwards Off. D. Jacques Off. Merideth Off. Menzoian Off. C. Mayes Off. C. Dowd Off. C. Condon Inv. H. Glass Inv. T. McClain Off. B. Jackson Off. M. Noble Off. S. Upton Off. W. Porter Off. Wm Walters Off. V. Marciano Off. D. Perry Off. J. Watkins	Sustained Allegation of Abusive Language Recommend 3 days unpaid suspension and Fourth Amendment Training

Case Number	Complainants	Allegations	Officers	ACRB Finding
09-38	Ernest Buehl	Abusive Language	All Officers Present at Eagle Bar (see above list)	Sustained finding of Abusive Language and Recommend 3 days unpaid suspension and Fourth Amendment Training
09-34	Thomas Fast	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle Bar	Sustained finding of Abusive Language and Unlawful Imprisonment and Recommend 3 days unpaid suspension and Fourth Amendment Training
10-08	Matthew Presley	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle Bar	Same as above
10-09	Thomas Hayes	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle Bar	Same as above
10-10	Geoffrey Calhoun	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle Bar	Same as above
10-11	Benjamin Cheaves	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle Bar	Same as above
10-12	John Curran	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle Bar	Same as above
10-13	Brian Hughes	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle Bar	Same as above

Case Number	Complainants	Allegations	Officers	ACRB Finding
10-14	Robert Treutel	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle	Same as above
10-15	Mark Danak	Unlawful Imprisonment, Abusive Language	All Officers Present at Eagle	Same as above
10-59	Atlanta Citizen Review Board Initiated Study	Supervisory Responsibilities	Sgt. J. Brock Sgt. K. Collier Sgt. W. Adams Lt. T. Crawford Lt. S. Pautsch Major D. Williams	Sustained Violations Below
		Sgt. Brock	SOP 1010, 4.1.4 & 3.2 (Mission and Organization of Department – Employee Performance and Accountable to Immediate Supervisor) SOP 2010, 4.2.03 Supervisory Responsibilities SOP 2010, 4.1.05 (Obey the Law), SOP 3020 Search and Seizure SOP 5030 Special Enforcement Section	Sustained violation of the described policies and recommend Written Reprimand and Training on Fourth Amendment (in addition to the discipline recommended in 10-16)

Case Number	Complainants	Allegations	Officers	ACRB Finding
10-59 <i>continued</i>		Sgt. K. Collier	SOP 1010, 4.1.4 & 3.2 (Mission and Organization of Department – Employee Performance and Accountable to Immediate Supervisor) SOP 2010, 4.2.03 Supervisory Responsibilities SOP 2010, 4.1.05 (Obey the Law), SOP 3020 Search and Seizure SOP 2010, 4.1.03 (Truthfulness)	Sustained violation of the described policies and recommend Written Reprimand and Training on Fourth Amendment (in addition to the discipline recommended in 10-16) Violation of SOP requirement of Truthfulness Recommend 30 day unpaid suspension.
		Sgt. W. Adams	SOP 1010, 4.1.4 & 3.2 (Mission and Organization of Department – Employee Performance and Accountable to Immediate Supervisor) SOP 2010, 4.2.03 Supervisory Responsibilities SOP 2010, 4.1.05 (Obey the Law), SOP 3020 Search and Seizure SOP 5140 , Red Dog Unit 4.3.1 (requires notification of Zone Commanders)	Sustained All Violations of listed SOP's. Recommend Written Reprimand and Training on Fourth Amendment

Case Number	Complainants	Allegations	Officers	ACRB Finding
10-59 <i>continued</i>		Lt. T. Crawford	SOP 1010, 4.1.4 & 3.2 (Mission and Organization of Department – Employee Performance and Accountable to Immediate Supervisor) SOP 2010, 4.2.03 Supervisory Responsibilities SOP 2010, 4.1.05 (Obey the Law),	Sustained Listed Violations Recommend Written Reprimand and Fourth Amendment Training
		Lt. S. Pautsch	SOP 1010, 4.1.4 & 3.2 (Mission and Organization of Department – Employee Performance and Accountable to Immediate Supervisor) SOP 2010, 4.2.03 Supervisory Responsibilities SOP 2010, 4.1.05 (Obey the Law),	Exonerated No Disciplinary Recommendations
		Major D. Williams	SOP 1010, 4.1.4 & 3.2 (Mission and Organization of Department – Employee Performance and Accountable to Immediate Supervisor) SOP 2010, 4.2.03 Supervisory Responsibilities SOP 2010, 4.1.05 (Obey the Law)	Sustained Violations Recommend Written Reprimand and Fourth Amendment Training

Chief George Turner
RE: Eagle Bar Complaint
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Please let me know if you have any questions or concerns or if you would like to have any further information. The full report is enclosed. The ordinance requires that the Chief respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications within thirty (30) days of the submission of a recommendation for action by the Board to the Chief. See Sec. 2-2211 (O) of Ordinance 07-0-0141.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joy Morrissey", with a stylized flourish at the end.

Joy Morrissey
Board Chair

Enclosure

cc: Mayor Kasim Reed
Council President Cesar Mitchell
Members of Council
ACRB Board Members